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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fifth session

SUMMARY RECORD OF THE 645th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 20 September 2000, at 10 a.m.

Chairperson: Ms. OUEDRAOGO

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GE.00-44509 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Burundi

(CRC/C/3/Add.58; HRI/CORE/1/Add.16/Rev.1; CRC/C/Q/BUR/1; written replies of the Burundian Government to the questions in the list of issues (document without a symbol distributed in the meeting room in French only))

1. At the invitation of the Chairperson, Mr. Nindorera, Ms. Rwamaheke, Ms. Nduwimana and Mr. Juma (Burundi) took places at the Committee table.

2. Mr. NINDORERA (Burundi) said that the general state of Burundi and the situation of human rights and children's rights had been the subject of considerable discussion due to the crisis experienced in the country since 1993. Indeed, children had been the main victims of that crisis and to date no satisfactory solution had been found.

3. Any analysis of the country's situation should be conducted in the light of the context of armed civil war and fratricide, which he hoped would end once a peace agreement was signed. At that very moment, a meeting involving the Government of Burundi and the armed groups, facilitated by Nelson Mandela, was being held in Nairobi with a view to establishing a ceasefire. The Committee might be aware that a first peace and reconciliation agreement had been signed in Arusha in August 2000, with the participation of most of the parties except for the armed groups, making it more of a political agreement than an agreement that could bring about a lasting peace. The current meeting, therefore, marked an important, though difficult, stage in the process.

4. The problems in Burundi were not limited to abductions, displacements, regroupments and exile. The economic and social fabric had also deteriorated, leading to the violation of human and children's rights. The situation had been further worsened by the embargo imposed upon the country by its neighbours in 1996, which, although lifted three years later, had seriously affected the most disadvantaged groups, especially children. It was his belief that the justification for embargoes should be questioned, as they often resulted in gross human rights violations.

5. Measures had been taken at the international level against Burundi which had had a negative impact on the country's development and, by extension, children's rights. Suspended bilateral and other forms of cooperation were slow in getting off the ground again, with the condition being the signing and implementation of a peace agreement. To compound the problem, parts of the country had suffered the terrible consequences of drought. Prior to 1993, the country had had promising health and education figures and the Government had believed that real progress could be achieved by 2000, only to be set back by the ensuing crisis. However, there were signs that the country had begun to recover in the fields of health, education and the economy, although it still fell far short of the norms and expectations of the international community. Efforts had been made to improve the situation of Burundian children through the passing and implementation of legal texts, but the country's resources were still lacking.

6. His delegation intended to be frank about the country's problems and the Government's proposed solutions. He assured the Committee of the Government's determination to protect children's rights.

7. The CHAIRPERSON invited the members of the Committee to ask questions relating to general measures of implementation and the definition of the child.

8. Ms. MOKHUANE thanked Mr. Nindorera for his introductory remarks, which gave a clearer picture of the political and social difficulties experienced by the country which affected the implementation of the Convention. She commended the efforts made by the State party to submit and present its report in spite of the odds, in full respect of the reporting guidelines laid down by the Committee, and the ratification by Burundi of ILO Convention No. 138 concerning Minimum Age for Admission to Employment (1973).

9. She would like to know what steps the Government had taken to harmonize the principles of the Convention with customary law, especially where inheritance rights were concerned. Had the draft laws on the rights of delinquent children and children in difficult circumstances, mentioned in the State party's written replies, already been presented to the Council of Ministers for consideration by the National Assembly? The State party had indicated in its written reply to question 2 that coordination on children's issues was effected through the Council of Ministers; she asked which ministry was concerned and how coordination was achieved. She also wondered whether the same actors were involved in monitoring, coordination and implementation. What plan of action had the Government envisaged to revise the country's priorities in view of its changed circumstances?

10. Mr. FULCI said he was pleased to learn of the meeting in Nairobi; it was high time to bring an end to the suffering of the people of Burundi. How could one discuss issues under the Convention when the very lives of Burundian children were being threatened on a daily basis? He wondered whether Burundi had signed the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, in view of their relevance to the country's situation.

11. He would welcome details on initiatives taken to narrow the gap between legislation on children's rights and its enforcement. What were the budget allocations for health and education, and what percentages of the national budget and of international funding were dedicated to children?

12. Mr. DOEK expressed admiration for people who continued fighting for the rights of children in a situation that would leave others feeling helpless and angry; he hoped that the peace agreement would be signed by all the parties. He asked whether the Government had a strategy for identifying the most urgent needs in Burundi.

13. He would like to know whether the Provincial Committees for the Protection and Promotion of Children's Rights, had already been established and what their activities were. Bearing in mind that children were the most vulnerable and easily exploited group, did the Government envisage signing the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption and the Hague Convention on the Civil Aspects of

International Child Abduction? He wondered whether the Government had considered establishing an ombudsman to monitor observance of children's rights, investigate complaints lodged by parents and children and report back to the Government.

14. Ms. KARP said the situation in Burundi was all the more regrettable considering that, at the beginning of the 1990s, the Government had begun to make progress in the area of monitoring children's rights. She asked whether there was a Government body or focal point responsible for coordinating the distribution of international financial assistance to ensure that it was child-focused and to avoid duplication. Now that a possible ceasefire was in sight, signalling a new start for the country, how did the Government plan to incorporate the main principles of the Convention into the new infrastructure, through training and the involvement of children as authentic partners in society? Burundian children had become wise through their experiences, and the Government would do well to listen to them in order to rebuild institutions and develop programmes and infrastructure. It would be interesting to know whether the Government had made the psychological treatment of Burundian children who had suffered the trauma of civil war a priority and whether international assistance had been made available for such rehabilitation.

15. Ms. TIGERSTEDT-TÄHTELÄ said she appreciated the State party's core document (HRI/CORE/1/Add.16/Rev.1) and the light it threw on Burundi's history, which was important for understanding the current situation. She would like to know whether there was a clear division between the parliament, the executive and the judiciary and how local communities functioned. What was the level of participation by the population in Government? Peace and stability thrived on democratic systems where there was political pluralism, separation of powers, the rule of law, freedom of the press, respect for human rights and the rights of minorities and, of course, respect for the rights of children. She would welcome reactions from the delegation in that regard.

16. Ms. RILANTONO said that the Government of Burundi must consider how to proceed after the conclusion of a peace agreement and the declaration of a ceasefire. Although much had been achieved before the outbreak of war, the country must now start over from the beginning. Most important, in her view, was to identify the causes of the civil strife - whether ethnic, cultural, or economic - and to take action to prevent such a conflict from erupting again in the future. In her view, the country's educational policy should focus on teaching children from a young age to live together, socialize together, and to appreciate each other. It would be useful to consider what actions the National Childhood and Youth Council might take to change policies affecting children.

17. Ms. SARDENBERG said that reports of States parties to the Committee usually showed a situation in progress: in the case of Burundi, no progress had occurred. The report and the written replies demonstrated, however, that the Burundian Government had the political will and interest to protect children's rights. She would like to know, first, what were its immediate plans for national reconciliation. Second, she would like information on the envisaged role of the sage in improving the situation of children. Third, she would welcome a summary of the child-related legislative texts under consideration. Finally, it would be useful to know whether the Provincial Committees had already been established, and what were the terms of their mandate.

18. The CHAIRPERSON said that a reading of the report revealed some inconsistencies in age restrictions. Paragraph 44 indicated that a man could marry at age 21 and a women at age 18. The same paragraph, however, stated that Burundi had ratified the African Charter on the Rights and Welfare of the Child, which established the minimum age for marriage at 18 years for both boys and girls. Laws regulating the age of marriage should be amended accordingly. Furthermore, although education was compulsory only for children between the ages of 7 and 12, the minimum age for employment was 16, exposing children between the ages of 12 and 16 to the risk of entering the job market too early.

19. Mr. RABAH said that even in a situation of civil conflict, there were ways and means of protecting children. It would be useful to know whether any measures had been taken to coordinate the efforts of non-governmental organizations (NGOs), United Nations agencies working in Burundi, especially the United Nations Children's Fund (UNICEF) and the United Nations Development Fund (UNDP), and the National Childhood and Youth Council, in particular since it was chaired by the Prime Minister.

20. He urged the Government to enact measures to ensure that all Burundian children were registered at birth, since unregistered children were not citizens and could not benefit from governmental protections and services, such as hospitals and schools.

21. Mr. NINDORERA (Burundi) said that the Government had undertaken a children's rights awareness campaign throughout the national territory, even in some conflict areas. It had held seminars and established the Provincial Committees, engaging the participation of members of the civil society in the protection and promotion of children's rights. That was a significant undertaking, which had required the outlay of considerable governmental resources.

22. Since the formulation of the initial report, a number of legislative texts had been drafted, some of which had been adopted. It had been urgently necessary to enact new legislation on intercountry adoption, in order to halt the wartime traffic in orphaned children. Many Burundian children had been offered for adoption abroad on the pretext that they had no parents, and abuses had occurred. Those who arranged such transactions had reaped profits, and in fact, some parents had sold their children. The new law regulated adoption, particularly intercountry adoption, with a view to helping Burundian orphans find new parents within the country, especially among relatives.

23. An inter-ministerial committee, of which he was a member, was currently meeting to analyse new draft legislation, which would then be reviewed by the Council of Ministers and submitted to Parliament for consideration during the session that commenced in October 2000. The texts in question, the amended Code of Personal and Family Affairs and the two draft laws on delinquent children and children in difficult circumstances, took into consideration the principle of the best interests of children.

24. The Government had discussed the establishment of a single legal document encompassing all legislative provisions concerning children, and had determined - in view of the available resources and the experience of other countries - that it must begin by focusing its attention on amending the relevant provisions to bring them into conformity with the Convention.

25. The sage, a leader in traditional Burundian society, would essentially play the role of ombudsman in defending the rights of children.

26. A committee had been working on preparing a new code on inheritance and marriage, which should be ready for adoption in 2001. It was particularly difficult to amend Burundian inheritance laws, since under traditional practice, a father divided his land among his sons, and if daughters too were included, each parcel of land became even smaller. Burundian society was profoundly reluctant to grant true equality to men and women, especially in the ownership of land.

27. Land was also at the heart of the refugee question, since all returning refugees wished to recover their lands. Restoring land to persons who had left during the previous decade might be a simple matter, but returning the land of those who had been absent for almost 30 years was more difficult. In the meantime, some of that land had been used for public buildings or taken over by other families. A process of compensation might be established, but that would not resolve the understandable attachment to ancestral lands. Those matters must be tackled within the context of a comprehensive land reform, which could not be undertaken during the current political crisis.

28. The Government had ratified the African Charter on the Rights and Welfare of Children in 2000, and had enacted a number of other child-related provisions. Far more important, however, was to cultivate attitudinal change and to create a favourable environment for reform, which naturally required the restoration of peace. Any agreement must be understood in the same way by all the parties, and all citizens of Burundi must be willing to accept each other and to work together. In various parts of the country, members of Burundian society, with the help of the traditional sages, had already begun to work toward achieving peace and reconciliation, despite the absence of a peace agreement.

29. An inter-ministerial committee, under the direction of the Ministry of Human Rights, was coordinating Burundi's efforts on behalf of children, in order to ensure that the scarce resources available were efficiently used. Unfortunately, a country at war must devote a large portion of its budget toward protecting and securing the population, and all other sectors naturally suffered. The Government had been rightly accused of doing too little on behalf of children, particularly those living in the street and in the camps. There was an ongoing debate on the subject of budgetary priorities, and in fact, the budget would be the principal topic of discussion during the upcoming parliamentary session.

30. Moreover, as the parties to the Burundian conflict lived together rather than in separate territories, it was difficult to identify the enemy. A peace agreement must be achieved; a very small minority continued to believe that a military solution was feasible. Schools were continually rebuilt, only to be soon again destroyed. In his view, a peace agreement must be reached before such efforts could prove fruitful.

31. The fact that the Burundi Government had not yet signed the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflicts and on the sale of children, child prostitution and child pornography did not mean that it did not intend to ratify those instruments. That again was a matter of priority, and the Government was obliged

to focus its attention on achieving peace. In his view, the ratification of such instruments should wait, as any text adopted during wartime would probably prove ineffectual. The ratification of the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction would be discussed during the parliamentary session to be held in October.

32. The gap between the adoption and application of legislation was mainly attributable to the conflict. Before any law could be applied, society must be psychologically prepared for it. Since 1993, legislative provisions discriminating against women had largely been eliminated from the law, but that had not resulted in full equality for women. Practical measures such as awareness campaigns were required to bring about social change. The realization of children's rights would be somewhat less problematic because Burundi's culture generally placed a great deal of importance on children. Traditionally, there had never been a problem of abandonment or street children, as any abandoned child would very quickly be cared for by relatives or by others. Just the same, it was important to ensure that the overall environment would be conducive to overcoming obstacles to the implementation of the Convention.

33. The proportion of the budget earmarked for education had fallen from 18.3 per cent in 1998 to 15.4 per cent in 2000, and the proportion for public health had declined from 3.3 per cent to 2.7 per cent. In 2000, education received 11.7 per cent of the capital budget, and public health received 2.9 per cent. Education was still the second largest budget item after national defence, and it was the largest item on the extraordinary budget, followed by agriculture and animal husbandry. It was difficult in the current context of uncertainty to draw up a budget for 2001, as any forecasts would necessarily depend on whether the country would be in a conflict or post-conflict situation.

34. Security in Burundi varied greatly from one region to another. In the regions most affected by the conflict, the primary concern was survival. Only after some stability was re-established would displaced people and other conflict victims seek to send their children to school. Even then, in regions such as the "red zones", while some families might be willing to send their children to school, very few teachers were prepared to risk their lives by working there. The security situation near Tanzania, where cross-border attacks by rebels were common, was so bad that it was extremely difficult to plan any kind of long-term action for the population. International NGOs and international agencies were instrumental in providing food, shelter and services in such regions, and were often able to take action much faster than the Government.

35. The Provincial Committees had in some cases exerted a positive influence, for example by setting up bodies at the commune level which effectively intervened when human rights violations were noted. For example, in Gitega Province, such bodies had either secured the release from prison of children, or had improved their living conditions, in particular by identifying persons likely to assist them. Owing to the conflict, children were sometimes forgotten or lost, and the Provincial Committees played an important role in restoring family ties in such circumstances. One of their main functions was to ensure the involvement of all members of society, through religious groups and civic associations, in defending the rights of the child throughout the country. The Government was endeavouring to support such activities by associations outside the capital, where they were most needed.

36. Burundi had signed the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption in April 2000. Concerning the Hague Convention on International Child Abduction, he would transmit the Committee's concerns to his Government.

37. A procedure existed for the coordination of NGO activities, whereby a foreign NGO operating in Burundi registered first with the Ministry of External Relations and Cooperation and subsequently with the technical ministry responsible for its field of activity, such as the Ministry of Health. All such NGOs must also register with the Ministry of the Interior, which had a coordination office. The aim of such registration was to avoid problems such as overlapping of services, by assigning assistance where it was most needed. The system generally worked well, although there had been a few problems owing to competition among some NGOs.

38. A number of studies had been devoted to ways of assisting traumatized children. The treatment of such children required a close presence, and unfortunately the country lacked the means to provide psychological treatment to all those who required it, for example through the public school system. Some NGOs did, however, provide limited assistance in that field, for instance in displaced persons camps.

39. The Constitution which had been adopted by referendum in 1992 had been suspended in 1996 and replaced by a transitional decree-law. In 1998 a constitutional transition act had come into force as the result of an agreement between the two main political groups, and a new Constitution was expected to result from the current peace process. According to some, the new Constitution should consist of the 1992 Constitution, amended by a text drawn up under the peace agreement. In the Government's view, however, a single text would be preferable.

40. The constitutional transition act called for a separation of powers between the executive, the legislature and the judiciary. Because of the very serious need for stability in the current political context, it did not allow the executive to dissolve parliament or parliament to dismiss or impeach the executive. While in principle the judiciary was independent, the executive branch could replace even Supreme Court judges. One of the questions discussed during the current negotiations therefore had been means of strengthening the independence of the judiciary, for example by ensuring that persons in technical posts would enjoy a degree of tenure of office. According to some proposals, a senate, or second chamber of parliament, would have responsibility for naming judges.

41. A major challenge in formulating such new institutions to ensure that they would be representative of a society whose population was about 85 per cent Hutu, 14 per cent Tutsi and 1 per cent Batwa. A democratic solution would no doubt include a system for power sharing among the different ethnic groups. A debate had begun on the proposed electoral system, with the Tutsi minority generally supporting the idea of indirect suffrage so as to ensure some balance in the new institutions. The question of how best to set up a pluralist democracy was at the heart of the current peace negotiations.

42. Some Burundians considered that the establishment of power-sharing institutions along ethnic lines would run the risk of deepening divisions. In the Government's opinion, the country's multiethnic situation, which had led to so much strife, must be recognized and addressed by political institutions in order to avoid the vicious cycle of violence.

43. The National Childhood and Youth Council was no longer operational. One of the Government's objectives was to establish a representative body to carry out the functions previously assigned to the Council. Traditional institutions were of great importance in Burundi. During the civil war, many "sages", or village elders, had at the risk of their own safety protected people whose lives were in danger, but others had lacked such extraordinary courage and still others had behaved less than honourably.

44. The Council of Ministers and the National Assembly would between October and December consider the draft codes and laws which were currently being drawn up and analysed. The new Code of Personal and Family Affairs, which should soon be adopted, would set the legal age for marriage and the age of majority at 18 for both men and women. Although there was no legal provision explicitly forbidding the military recruitment of minors, only people over 18 years of age were allowed to enrol in the military. Because of conflict-related problems in the registration of children, it was sometimes impossible to determine a child's name, let alone his or her exact age. That had repercussions not only for military recruitment but also for the reliable collection of statistics.

45. Ms. RWAMAHEKE (Burundi) said that, with support from local and international NGOs, psychosocial assistance was being provided for children in difficult situations. Despite economic constraints, the family reunification strategy was progressing; traumatized children were also helped, the emphasis being on placement in a family environment. Also, one of the amendments to the Code of Personal and Family Affairs would take the form of a new, innovative article establishing the age of marriage at 18 for men and women, replacing the current article 88 which set the age at 21 and 18 respectively.

46. The CHAIRPERSON invited the Committee members to ask their second round of questions, as well as questions concerning general principles and civil rights and freedoms.

47. Ms. MOKHUANE, referring to general measures of implementation, asked how the country's child-development policy could be reconciled with the population regroupment policy, which adversely affected children. She would like to know whether the various ministries engaged in developing children's rights played an advocacy role and exactly how the Ministry of Human Rights was involved. She inquired into the strategy for raising awareness of children's rights in rural areas, where illiteracy was rife. Finally, apart from donor participation in efforts to implement the provisions of article 4 of the Convention, how did the authorities intend to sustain the war-damaged economy and what resource allocation plans did it entertain?

48. Turning to general principles, she noted a discrepancy between the claim in the initial report that there was no ethnic discrimination against children and the delegation's admission that there was not only discrimination based on ethnic origin and country of birth, but another form of discrimination based on favouritism, whereby resources were siphoned from certain regions and allocated to others. What was the current situation in an ever-changing society with regard to discrimination against children? She also wished to know how the best interests of the child were promoted in a situation of civil war, especially with regard to the opposition parties. Also, the fact that custody was invariably awarded to the father in divorce proceedings indicated that children's material, but not emotional, interests were considered.

49. Since, as stressed in the initial report, the rights to life and development had been curtailed by the civil war, and since laws alone did not suffice, how was Burundi creating an enabling environment for the promotion of children's rights?

50. Ms. KARP said she agreed with previous speakers that the Government's regroupment policy was inconsistent with the development of children's rights. What was Burundi's attitude to democracy, in which, traditionally, majority rule went hand in hand with guarantees of the rights of the minority. She stressed the need for children to serve as partners of the authorities and share their particular expertise in the formulation of policies and programmes. What action was the Government taking to empower children and adolescents, as many African countries had done, and involve them from the outset in programmes such as action to combat AIDS and the provision of adequate health-care and hospital services?

51. One problem was the authorities' insistence that discrimination was not based solely on ethnic origin or race. In that connection, she asked for more information concerning the Twa people. She wondered whether the affirmative action undertaken in the form of special budgetary allocations to bring the Twa to the same level of development as other population groups did not constitute a form of discrimination against the latter, and what longer-term strategy the Government was considering for addressing their situation. She noted that, although the idea that childhood ended at 18 was generally accepted, the statistics regrettably covered children only up to the age of 15. Lastly, were there plans to set up a Ministry of Child Affairs, as distinct from the ministry dealing with women's issues?

52. Ms. RILANTONO asked how the authorities planned to govern a society as divided as the one described. She endorsed Ms. Karp's recommendation of intensive child participation, and suggested that joint activities by Hutu and Tutsi children could be instrumental in changing divisive adult attitudes. If, as the delegation had claimed, the traditional communities were already working on peaceful cohabitation without awaiting the expected peace agreement, had the Government given thought to empowering those communities to develop a new way of life and new attitudes that would contribute to a holistic approach to the implementation of children's rights?

53. She applauded the allocation of 15 per cent of the total budget to education, which would serve to boost children's participation in development. She asked whether there was a national programme existed for addressing the extremely high poverty rate; a 5-year or 10-year programme stood a good chance of receiving international assistance. Why had the regroupment policy, which was exacerbating divisions in the country, been undertaken?

54. Mr. DOEK asked whether specific NGOs focused on the problems of refugees, as implied in the written replies. If so, was it at the Government's insistence? Were any NGOs addressing the apparently prevailing view that girls needed less education than boys? What positive action had been undertaken to improve girls' enjoyment of their right to primary and secondary education?

55. Regarding children's expression of their views, he asked whether there had been any follow-up to the recommendations formulated by children on the occasion of Burundi's latest Annual Children's Day concerning basic services such as education, health care and clean water.

While mention had been made in the written replies of the planned establishment of a judicial police force to investigate exploitation of children, no reference had been made to exploitation in areas affected by armed conflict.

56. Lastly, while applauding the Government's action to penalize corporal punishment of children by the police, he stressed that, without an independent complaint mechanism, the threat of penalties would be of no avail.

57. Mr. FULCI asked for information about the situation between the Hutu and the Tutsi in the neighbouring country of Rwanda. He emphasized the importance of birth registration, without which a child virtually did not exist. Was there in Burundi, with its droves of refugees and countless regroupment camps, a central office that could certify a child's existence? He wondered what practical action could be taken to facilitate birth registration.

58. Mr. RABAH said that discrimination in Burundi was a serious problem. From information he had received, there was hostility not only between the Hutu and the Tutsi, but towards other ethnic groups, especially the Batwa, who were socially discriminated against and whose children claimed to be denied access to justice before the courts, health-care services and land. How was the Government reacting to ethnic discrimination which was the main reason for the civil war?

59. Ms. SARDENBERG asked whether the delegation could provide information on the role women were playing in bringing the conflict and divisions in the country to an end. Also, what likelihood was there that the commission to investigate the human rights situation, to which Burundi had referred before the Commission on Human Rights, would be set up? What had been the outcome of the Government campaign, mentioned in the written replies, to eradicate ethnic discrimination in education? Lastly, were any national or international agencies working with children who had become heads of families because of the war?

60. Ms. TIGERSTEDT-TÄHTELÄ pointed out that the negative trend in budget allocation for implementation of children's rights ran counter to the spirit of article 4 of the Convention, a problem which, together with the steep rise in the poverty rate, the authorities should do their utmost to address. She also asked what motive lay behind the Government's policy of forced regroupment, which violated human rights law, and how that policy was implemented.

61. The CHAIRPERSON asked what measures the Government was taking to bring into line with the Convention the discrimination against girls in inheritance legislation, especially with regard to property; against boys, who were less attractive to foster families; and against women, with regard to custody and the nationality conferred on children. Endorsing Mr. Rabah's comments on birth registration, she asked what assistance was given to children without identification documents. Were they issued with new ones? How were they registered? It was not enough for the Government to waive the penalty for late registration, as mentioned in the written replies; it must take a series of measures to facilitate registration.

The meeting rose at 1 p.m.